

Edn. & P.H. (1941) Department.

17b. SERIES.

G.O. No. 3028 P.H.

Dated

17-7-41.

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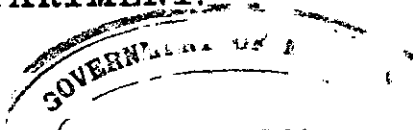
[Despatch Abstract.]

BUILDING RULES - Hospet Municipality - Sri B.

Anjaneyulu - Terraced building - Rules 8 and 24 -

Exemption - Granted.

DEPARTMENT.



Received 19 . Registered (9 JUN 1941 19

Subject. - 22061

Building - Reconstruction - Violation of building rules in G.O.No.1621 P.H. dated 30-7-32 . Sri. B. Anjaneyulu - D.No. 852/IV Cowlpet - Orders - Reconsideration Requested.

ENCLOSURES.	
No.	<i>one</i>
Spare copies	

H.P. No.550/39-D.1.

Station Hospet, Dated the 28-5-1941. 19

From (Name) Sri. I. Rajarao Naidu,
(Designation) Commissioner, Hospet Municipality,
Hospet.

To The Secretary to the Government of Madras,
Education & Public Health Department.
M a d r a s.

Through
Sir,

The Director of Town Planning, Madras.

The Chairman, Municipal Council, Hospet.

Ref:- Resolution C.R.69 dated 15-5-41 of the
Municipal Council, Hospet on G.O.No.
3090 dated 12-7-40. (M) *P u infra*

Forwarded.
7.6.41.

Mmsm

7.6.41.
Chairman M.C.
Hospet.

In submitting herewith the resolution of the Council C.R.No.69 dated 15-5-41, I beg to request that the Government may be pleased to reconsider the orders in G.O.No.Ms.3090 dated 12-7-40 for the reasons stated as under:- (N) *P u infra*

The resolution of the Council above referred to relates to the reconstruction of a building in D.No.852/IV Cowlpet of this Municipality. Sri. B. Anjaneyulu who happens to be the owner had before commencement of the works submitted an application dated 16-10-39 to the Municipality with the site and building plans for reconstruction into a hall of 14' x 12' of the mud building 19 $\frac{3}{4}$ ' x 18 $\frac{3}{4}$ ' which had originally existed on the same site of the same extent (Please vide pages 1 to 7). On the application orders H.P.450-39 dated 30-11-39 (page 13) 2

refusing permission on the grounds that the reconstruction violates rules 8 & 24 of building rules in G.O.No.1621 P.H dated 30-7-32 were communicated to him on 11-12-39 (page 1). The applicant instead of seeking recourse to the remedy provided under section 202 of the District Municipalities Act by application to the Council, had, it appears, commenced the works. A notice directing him to stop the work vide H.No.625 dated 2-12-39 was served in his absence on his agent on 5-12-39 (page 16). Against the orders H.P.450/39 dated 30-11-39 he had appealed to the Council (vide page 17). The Council in resolution No.1184 dated 18-1-40 had resolved to grant license on the appeal with the grounds that

- (1) before he had proceeded with the work for which several prosecutions were launched and convictions were also obtained by the Municipality, he had submitted an application with the site and building plans.
- (2) he had waited for orders from the municipality for over 1½ months, as against the provision under section 200 and 201 of the District Municipalities Act.
- (3) he had commenced the work more for the safety of his family who were living in an old mud building in imminent danger of collapse and was therefore obliged to pull it down to reconstruct it so as to avoid the inconvenience that may be caused to him and his family.
- (4) The reconstruction made was in nature entirely different from constructions in extension areas for which the building rules in G.O.1621 P.H. dated 30-7-32 could reasonably and without hardship be enforced as the site in question is an already built up area with its extent limited to 19½' x 18½'. If the rules 8 and 24 were to be rigorously applied the reconstruction is rendered impracticable as the area that will be left available will be reduced to little or nothing.
- (5) Under the circumstances mentioned in para 4, no one will also come forward to take on cost the limited site unless at considerable pecuniary loss to him as it will not be useful for any purpose even to the purchasers also.
- (6) The rules 8 & 24 therefore work as a serious hardship apart from being impracticable of enforcement on him who is after all an individual of small means living out of earnings by sale of pictures and photoes.

My predecessor in his letter H.P.550/39 dated 2-4-40 had solicited orders of the Government on the resolution of the Council C.R.No.1184 dated 18-1-40 granting licence against his orders H.P.450/39 dated 30-11-39 which were ~~issued as~~ building rules in G.O.1621 P.H. dated 30-7-32 and issued under sections 200, 201 and 203 of the District Municipalities Act. The Government in G.O.No.Ms.3090 dated 12-7-40 (page 79) have cancelled the resolution of the Council above referred to for the reasons mentioned therein and these orders have been placed before the Council for information before further action under section 216 of the District Municipalities Act could be taken. The Council in resolution No.402 dated 31-8-40 (vide page 81) had taken the stand that its action in having granted license against the orders of the executive authority is justifiable in virtue of powers of revision conferred upon it by law under

sections 322 and 323 of the District Municipalities Act and that the orders of Government in G.O.No.4654 dated 18-12-39 taking powers under new rule 108 A to exempt constructions from operation of building rules have been communicated to Chairman on 9-2-41 while the date on which the Council passed the resolution 1184 under question is on 18-1-40. It was further of the opinion that the Government while making rules will not be justified to take away the powers of revision conferred upon it by law under sections 322 and 323 of the District Municipalities act. It had therefore in resolution No.402 dated 31-8-40 (page 81) referred the file to one of the lawyer Councillors Sri. S.V.Bheemachar for opinion. But the Councillor had sent back the file of papers without submitting his opinion as he had resigned the office of the Councillor of the Municipality subsequently. The Council in C.R.No.69 dated 15-5-41 have again resolved to request the Government to reconsider the case in view of the above issues which if left undecided may create difficulties to the Municipality in enforcing the orders of the Government and the other relevant sections of the District Municipalities Act in the matter of unlawful constructions. It had also resolved to request the Government to exempt the construction, if the Government were to feel still that ~~the~~ action in cancelling the resolution is justifiable, from the operation of building rules 8 and 24 of G.O.No.1621 P.H. dated 30-7-32 under the new rule 108 A ~~as~~ a person of poor status and in a matter where it is impracticable of enforcement and where it will work as a hardship in an already built up area as against those in extensions.

I have seen the site and the construction and am of opinion that this is a fit case for exemption under rule 108 A of building rules in G.O.1621 P.H. dated 30-7-32 and G.O.4654 dated 18-12-39. I have also examined if the construction satisfies at least the draft rules in G.O.No. 1854 P.H.dated 4-5-40 for constructions in non extension areas and I find that they also work as a hardship. The locality in which the site is located is unimportant on public considerations.

I request that the Government under the circumstances stated will be pleased to issue such further orders as deemed fit. I may also be given for my guidance, instructions explaining the scope of revisionary powers of the Council under section 322 and 323 of the District Municipalities Act in respect of constructions which ~~are~~ governed by the building rules issued by Government in virtue of powers under section 303 of the District Municipalities Act and how far the views of the Council detailed above are justifiable.

S. Raju Rao
1.6.41
Commissioner.

T.S.P.3075.

S. S. S. S.
31.5.41

Copy of the Council resolution No. ~~39~~ dated 15-5-41.

Read Council Resolution Nos. 398, 401, 402, 403 and 408 dated 31-8-40 and Council resolution Nos. 567, 568 dated 31-10-40 referring the files H.P.Nos. 394/39, 550/39, 685/39, 140/39 and H.P.Nos. 16/40, 383/40 and H.P.No. 139/41 to Sri. S. V. Bheemachar Municipal Councillor for remarks.

(ii) Note of the Municipal Health Officer dated 5-4-41 informing that Sri. S.V. Bheemachar has returned the above files without offering his opinion.

Resolution:- The Government is requested to reconsider ^{again} these cases as a special case as removal of these buildings would cause lot of hardship to the parties who are very poor and illiterate.

(True copy)

Sd. M. V. Swamy,
Chairman.

S. R. Rao
1/5/41
Commissioner.

V
21-5-41

Endt. No.

Comm. & P. H. Dept.

H Section

Referred to the S. J. P. for early

reimburse.

7c

10/6/11
20

The S. J. P. with copy of P.

Edn. & P.H. Dept.

13
13.6

Memo No. 22061-124PH Dated 13-6-41

C.No. 22061 HPH From the Commissioner *H. S. Pet.*
Municipality No. 530/39 - D dated 28.3

Buildings - Rules - *H. S. Pet.*
Municipality - Sri B. Anjaneyulu -
Relaxation.

Referred to the Director of Town
Planning for ^{early} remarks.

To

The D.T.P. (with c.f.
in original to be
returned with reply)

(PP1-4 CF)

ops with rules.

Key
14/6

OTC W8
11/6

TOWN PLANNING Department
From (Name) **Sri Rao Bahadur S.G. Grubb,**
B.A.,
Designation **Ex-Officio Director of**
Town Planning
Station **Mount Road, Madras.**

Received 12 JUL 1941 Registered
To **EDUCATION & PUBLIC HEALTH DEPT**
The **Secretary** to Government,
Education & Public Health
Department.

26746

Enclosures :

Reference

No. B.A.26 dated 10-7-41. 194

Sir,

Sub: Building Rules - Hospet Municipality - Sri B.
Anjaneyalu - relaxation.

Ref: Memo 22061/1H P.H. dated 13-6-41. *TV*

P.H.
In G.O.No. 3090 P.H. dated 12-7-40, Government cancelled the resolution of the Council (No.1184, dated 18-1-40) granting permission to Sri B.Anjaneyulu for reconstructing a mud house into a terraced building. The Council in its resolution 402 dated 31-8-40 took the stand that its action in having granted license against the orders of the Executive Authority is justifiable in virtue of its powers under Sec.322 and 323 of the Act. In its resolution dated 15-5-41, the Council requests Government to reconsider the case and if they consider that the cancellation of the previous resolution of the Council justifiable, to exempt the building from the operation of the rules as the removal of the buildings would work hardship to the party.

P.H.
P3200
(X)
The Commissioner in the penultimate paragraph of his letter to Government, says that he is of opinion that it is a fit case for exemption under rule 108 A of the existing Building Rules and that the draft rules for non extension areas issued in G.O.No. 1854 P.H. dated 4-5-40 would also work as a hardship in this case.

P.T.O.

The construction is put up by the party in a site of 18 $\frac{3}{4}$ ' X 19 $\frac{3}{4}$ ' contravening rules 8 and 24 of the Building Rules. The site is too small for construction of a dwelling house which would satisfy the requirements of the health of the residents occupying it and therefore stands to be condemned. Not only the provisions of the existing building Rules cannot be complied with but also the proposed new draft rules issued in G.O.No.1854 P.H. dated 4-5-40 will not be satisfied. In these circumstances, it would be unreasonable to permit the construction or reconstruction of a dwelling house on the site.

~~4~~ As, however, the party is very poor and will not be able to secure some other convenient site for his house the Government may if they like, allow the construction, as a special case, granting exemption from the operation of rules 8 and 24 of the Building Rules

~~5~~ So far as the question of powers of the Council under Sec. 322 and 323 of the District Municipalities Act is concerned, the Commissioner may be informed that the rules are statutory and the Government alone have power to grant exemption from the operation of any rules. Where the council exceeds its powers the executive authority should bring the matter to the notice of Government. If the permission granted by the Council to construct a building is in contravention of the Act or the rules made thereunder, such permission would be ~~an~~ ultra vires and could be cancelled under sec. 36(1) of the District Municipalities Act.

R. S. K. S. K.
for Ex-Officio Director
of Town Planning

M.S.10.7.

CPB
8/10/7

17-2.
34
12/17

C No. 22061 H.P.H.

Edu. & P. H. Department
H Section

Read:

From the Commr. Hospet Mch. H.P.M.
550/39-D1 dated the 28th May '41.

CC C- From the D. J. P. No. BA 26 D 16.7.41

Read also:

G.O.

No. 2213 P.H. D 25.5.40

11

3090 P.H. D 12-7-40

Sub:

Building Rules - Hospet Mch. -
Sri B. Anjaneyulu - ~~Rules & orders~~
~~Terraced Building~~
~~Exemption - Consideration of~~
~~Rules 8 and 24~~
~~Previous orders regarding - Orders~~
~~passed~~ Exemption -
Granted

Order No 3028
Ms

P.H. dated 17/7/41

Under rule

108-A of the Building rules
issued in G.O. No. 1621 P.H.

dated the 30th July 1932,
as subsequently amended, the
Government are hereby pleased
to exempt, as a special case
the room constructed by Sri
B. Anjaneyulu in ~~Cowpet~~
in the III ward of the Mch.
from the operation of rules
8 and 24 of the Building

Dr
16/7

Building rules.

2. So far as the

question of the powers of the
Repl. Council under sections

322 & 323 of the R.D.M. Act is

concerned, as the Commissioner

is informed that the ~~Repl.~~ Council cannot
exceed its powers under the Act and its rules when passing
~~any statutory and the~~
orders on appeals, and that under rule 108 of the Building Rules
of Government alone have

power to grant exemption

~~from~~ from the operation of any

rules in respect of buildings -

Run
12/7
LWS
12.7.41

WS
16/7

To

The Commr. Hospital Insp. 7.

Thro' the C.C.P.

D.J.P. ✓

Note:

Please see the remarks of the
Commr. in the penultimate para.
of his letter to Govt. on P. 3 et.

and the remarks of the D.J.P. in

in para 4 on P. 9 et. ~~Subject~~ The Council has
of course powers of appellate authority under
the orders the ~~draft above~~
Sections 322-323 of the Act, but it cannot
~~exceed its powers~~
exceed its powers —

Run
12/7

LWS
12.7.41

WS
16/7

WS
16/7